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Attorney for Defendant
 NEITAN ERAZO RAMOS

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO VENUE

UNITED STATES OF AMERICA,)	No. 21-cr-00415-002 CRB
)	
Plaintiff,)	
)	DEFENDANT ERAZO RAMOS'
)	SENTENCING MEMORANDUM
vs.)	
)	
NEITAN ERAZO RAMOS,)	
)	
Defendant.)	
)	DATE: January 4, 2022
)	TIME: 10:00 a.m.
)	DEPT: Hon. Charles R. Breyer

Defendant NEITAN ERAZO RAMOS, remorsefully appears before this honorable Court for entry of judgment and sentencing. The defense respectfully requests that the Court sentence Mr. Erazo Ramos to time served, followed by four years of supervised release with appropriate conditions. As of today, Mr. Erazo Ramos has served almost 15 months in federal custody, and he is likely to be deported upon release.

I. MR. ERAZO RAMOS' BACKGROUND

Mr. Erazo Ramos was 24-years old at the time of his offense. Although he had been arrested before for drug-related offenses, he had never been convicted of any crimes or incarcerated for more than a few days. Mr. Erazo Ramos is very remorseful for his criminal conduct. In his statement to the probation officer, he wrote: "I . . . accept responsibility for

1 being involved in the sales of methamphetamine. I am sorry for my criminal conduct. I feel
2 badly about my poor judgment.” He further explained that he “could not find a good-paying
3 job and [he] needed to provide financial support for [himself] and [his] family in Honduras.”
4 Mr. Erazo Ramos helped to pay for many of his family’s expenses in Honduras, including
5 school for his siblings and food. Presentence Report [hereafter “PSR”] at ¶ 21.

6 Mr. Erazo Ramos was born to Anibal Ramos and Lesli Velasquez Erazo in El
7 Pedernal, a small Honduran town. *Id.* at ¶ 53. His childhood was marred by exposure to
8 significant traumas, most significantly extreme poverty. Mr. Erazo Ramos, his parents, and
9 his brothers lived in a small one-bedroom adobe style house with a thatch roof. The home did
10 not have water, electricity, or indoor plumbing. Candles were used for lighting. Mr. Erazo
11 Ramos’ parents used the one bedroom and the children shared the remaining living area. The
12 family’s primary meals were beans and tortillas, and there was often not enough food to
13 prevent hunger. *Id.* at ¶ 54. Children, like Mr. Erazo Ramos, who experience extreme poverty
14 develop chronic stress, which can impair their social development.

15 Poverty and hunger were not the only traumas faced by Mr. Erazo Ramos in
16 childhood. Another source of stress was threats to physical safety. Mr. Erazo Ramos’ parents
17 disciplined him and his siblings by whipping them with a belt several times a month. *Id.* at
18 ¶ 55. In addition, there was a significant amount of violence in El Pedernal. Mr. Erazo Ramos
19 frequently heard the sound of gunfire and felt unsafe at home. *Id.* at ¶ 58.

20 Mr. Erazo-Ramos attended school, but only until the seventh grade. He left before
21 graduating because school was too expensive and he had to work in the fields to help support
22 his family. *Id.* at ¶ 68. Agriculture work was hard and not very lucrative. Mr. Erazo Ramos
23 hoped that by coming to the United States he could earn more money to better support his
24 family. At about age 20, Mr. Erazo Ramos left Honduras for the United States. He first lived
25 in Los Angeles and then came to San Francisco. *Id.* at ¶ 59. Initially, Mr. Erazo Ramos found
26 work as a dishwasher in various restaurants. His pay, however, was very low. It was difficult
27 for Mr. Erazo Ramos to both support himself and his family in Honduras with restaurant
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1 work. His lack of education and illegal immigration status prevented him from finding a
2 higher paying job. *Id.* at ¶ 30.

3 In about 2018, Mr. Erazo Ramos concluded, albeit wrongly, that he had no choice
4 other than to sell drugs to increase his income. San Francisco police arrested him on many
5 occasions, but only once were charges filed in court and that case was eventually dismissed.
6 *Id.* at ¶¶ 39-51. While Mr. Erazo Ramos readily acknowledges he is to blame for making bad
7 decisions, the lack of prosecution gave him the false belief he could continue dealing drugs
8 without suffering any consequences. Eventually, an arrest in Oakland on February 10, 2021
9 resulted in a criminal case being filed in Alameda County Superior Court. *Id.* at ¶ 37. After
10 Mr. Erazo Ramos was released from custody, he unfortunately went back to what had
11 produced income for him, drug dealing. On October 14, 2021, ATF agents arrested Mr. Erazo
12 Ramos in this case and he has remained in custody ever since. Because of his current
13 incarceration, he was not present for the Alameda County case on March 2, 2022 and a bench
14 warrant was issued. *Id.*

15 Mr. Erazo Ramos has now been in custody for almost 15 months, much longer than
16 the few days he previously spent in jail in connection with state court cases. He has attempted
17 to spend his custodial time productively by volunteering to work in the Santa Rita kitchen.
18 Because he does not have legal immigration status, he likely will be deported to Honduras
19 upon his release from custody. In Honduras, Mr. Erazo Ramos plans to reunite with his
20 family and to again work in the agriculture fields. He also hopes to own animals. *Id.* at ¶ 61.

21 **II. PLEA AGREEMENT**

22 Mr. Erazo Ramos and the government entered into a written plea agreement pursuant
23 to Rules 11(c)(1)(A) and 11(c)(1)(C) of the Federal Rules of Criminal Procedure. Mr. Erazo
24 Ramos pled guilty to Count One of the Indictment, charging him with Conspiracy to
25 Distribute 50 Grams or More of a Substance Containing a Detectable Amount of
26 Methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B)(viii). The plea
27 agreement calculates Mr. Erazo Ramos' adjusted offense level under the Sentencing
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Guidelines as either 21 or 23, depending upon whether he is entitled to a minor role adjustment.¹ The plea agreement also contemplates a further two-level variance if Mr. Erazo Ramos satisfies the safety valve requirements under U.S.S.G. § 5C1.2(a)(2)-(5). Plea Agreement at ¶ 7. The parties did not reach an agreement regarding Mr. Erazo Ramos' Criminal History Category. The government promised to recommend a sentence within the range associated with the Guidelines calculation contained in the plea agreement, unless Mr. Erazo Ramos violated the agreement or failed to accept responsibility. Plea agreement at ¶17. Paragraph 7 of the plea agreement allows Mr. Erazo Ramos "to seek a downward variance based on the factors set forth in 18 U.S.C. § 3553(a)."

III. PRESENTENCE INVESTIGATION REPORT

Mr. Erazo Ramos has no objections to the factual content of the PSR. It calculates his adjusted offense level to be 21, which includes a two-level reduction for meeting the safety criteria. The PSR also finds that Mr. Erazo Ramos has a Criminal History Category of I, resulting in a Guidelines Range of 37 to 46 months. PSR at ¶ 75. According to the Judicial Sentencing Information database, similarly-situated defendants are sentenced on average to 26 months of imprisonment. The median length of imprisonment imposed is 28 months. *Id.* at ¶ 91. Based on the factors set forth in 18 U.S.C. § 3553(a), the PSR recommends that the Court vary downward from the applicable Guidelines Range and impose a sentence of 30 months. PSR Sentencing Recommendation at 1. The PSR notes that Mr. Erazo Ramos "had a difficult upbringing in Honduras" and "has never been sentenced to a period of incarceration; therefore, any lengthy period of confinement would be a significant punishment." *Id.* at 2. Mr. Erazo Ramos agrees that a downward variance is appropriate, but recommends a greater variance, resulting in a custodial sentence of time served.

¹Mr. Erazo Ramos' role was clarified in the safety valve debriefing and he is no longer seeking a reduction for being a minor participant.

1 **IV. MR. ERAZO RAMOS RESPECTFULLY REQUESTS THAT HE BE**
 2 **SENTENCED TO TIME SERVED FOLLOWED BY FOUR YEARS OF**
 3 **SUPERVISED RELEASE WITH CONDITIONS SET BY THE COURT**

4 In *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008), the Ninth Circuit
 5 explained that,

6 The overarching statutory charge for a district court is to “impose a sentence
 7 sufficient, but not greater than necessary” to reflect the seriousness of the
 8 offense, promote respect for the law, and provide just punishment; to afford
 9 adequate deterrence; to protect the public; and to provide the defendant with
 10 needed educational or vocational training, medical care, or other correctional
 11 treatment. 18 U.S.C. § 3553(a) and (a)(2).

12 All sentencing proceedings are begun by the district court calculating the applicable
 13 guideline range. The district court then should consider the sentencing factors set forth in
 14 section 3553(a) to determine if they support the sentence suggested by either of the parties.
 15 *Carty*, 520 F.3d at 991. These factors include:

16 the nature and circumstances of the offense and the history and characteristics
 17 of the defendant; the need for the sentence imposed; the kinds of sentences
 18 available; the kinds of sentence and the sentencing range established in the
 19 Guidelines; any pertinent policy statement issued by the Sentencing
 20 Commission; the need to avoid unwarranted sentence disparities among
 21 defendants with similar records who have been found guilty of similar
 22 conduct; and the need to provide restitution to any victims. 18 U.S.C. §
 23 3553(a)(1)-(7).

24 *Id.*

25 Here, as identified above and in the PSR, there are a myriad of sentencing factors that
 26 support the sentence requested by Mr. Erazo Ramos.

27 **A. Difficult Upbringing in Honduras**

28 Mr. Erazo Ramos was raised in extreme poverty. He and his family lived in a small,
 one-bedroom home, without running water, electricity, and indoor plumbing. He often went
 hungry, and when the family had food, it consisted only of beans and tortillas. Mr. Erazo
 Ramos left school after the seventh grade so he could help support his family by working in
 the fields.

Not only did Mr. Erazo Ramos have to cope with stress caused by poverty, he

1 experienced anxiety from threats to his physical safety. At home, his parents whipped him
2 with a belt several times a month. In addition, there was a significant amount of violence in
3 his small town. He frequently heard the sound of gunfire and felt very unsafe.

4 **B. Difficult Adjustment in the United States**

5 Mr. Erazo Ramos did not come to the United States for the purpose of illegally selling
6 drugs. He immigrated with the hope of finding legitimate employment that would allow him
7 to support both his family in Honduras and himself. Unfortunately, finding adequate
8 employment without having legal immigration status proved to be difficult. He obtained
9 work as a dishwasher in various restaurants, but the pay was too little. It seemed to Mr. Erazo
10 Ramos that the only viable way of earning enough money to support himself and his family
11 was through selling drugs, especially when engaging in this illegal conduct went unpunished
12 by the local criminal justice system.

13 **C. Time Served is Substantial Punishment**

14 Although Mr. Erazo Ramos was previously arrested for selling drugs by the San
15 Francisco Police, only once were charges filed in superior court and that case was later
16 dismissed. An arrest in Oakland also resulted in a criminal case being filed, but Mr. Erazo
17 Ramos was released from the custody while the case remains pending. As a result, Mr. Erazo
18 Ramos has never been sentenced to a period of incarceration in the past or even spent
19 significant time in pretrial custody. As the PSR correctly observes, any lengthy period of
20 incarceration would be a significant punishment. To date, Mr. Erazo Ramos has spent almost
21 15 months incarcerated under difficult circumstances in Santa Rita Jail. This lengthy period
22 of incarceration clearly constitutes significant punishment for Mr. Erazo Ramos and is also
23 long enough to serve the purpose of general deterrence.

24 **D. Likely Deportation to Honduras**

25 Because Mr. Erazo Ramos does not have legal status here he is likely to be deported
26 to Honduras upon being released from custody. While Mr. Erazo Ramos will be reunited with
27 his family, living in Honduras will be difficult. Honduras remains a very poor country with
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few economic opportunities. In 2019, 49 percent of Honduras residents lived on less than U.S. \$5.50 a day at 2011 international prices.² According to the World Bank:

Honduras remains one of the poorest and most unequal countries in the Western Hemisphere. Prior to the twin shocks of 2020 [COVID-19 pandemic and two Category 4 hurricanes], 25.2 percent of the Honduran population lived in extreme poverty and almost half (4.4 million people) lived in poverty, based on the official poverty lines. Poverty had shown little decline since 2014, while extreme poverty increased in rural areas since 2014 and in urban areas since 2017. Rural inequality also rose sharply from a Gini index of 0.431 in 2014 to 0.486 in 2019. Overall, Honduras had in 2019 the fourth-highest level of income inequality (Gini index of 0.482) in the LAC [Latin American and Caribbean] region.³

Honduras is also still a country of great violence. In 2022, Honduras had the fourth highest murder rate of any country in the world, at 39.93 per 100,000 population.⁴ As of October 5, 2022, the United States State Department advised against travel to Honduras because:

Violent crime, such as homicide and armed robbery, is common. Violent gang activity, such as extortion, violent street crime, rape, and narcotics and human trafficking, is widespread. Local police and emergency services lack sufficient resources to respond effectively to serious crime.⁵

Given the difficulties of life in Honduras, deportation will pose significant additional punishment on Mr. Erazo Ramos, beyond his incarceration.

V. CONCLUSION

Due to the many mitigating circumstances outlined above and in the PSR, the Court should sentence Mr. Erazo Ramos to time served, followed by four years of supervised release with appropriate conditions. A sentence of almost 15 months is significant punishment, especially since Mr. Erazo Ramos has not previously served a term of

²See <https://www.macrotrends.net/countries/HND/honduras/poverty-rate>

³See <https://www.worldbank.org/en/country/honduras/overview>

⁴See <https://worldpopulationreview.com/country-rankings/murder-rate-by-country>

⁵See <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/honduras-travel-advisory.html>

1 incarceration. In addition, no additional time in custody is needed to serve the interests of fair
2 punishment, rehabilitation, and deterrence.

3 DATED: December 28, 2022

Respectfully submitted,

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5 /s/ Mark Goldrosen
6 MARK GOLDROSEN
7 Attorney for Defendant
8 NEITAN ERAZO RAMOS
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